

## **AGENDA**

### **COMMITTEE ON BILLS ON SECOND READING**

**March 22, 2004  
Aldermen Lopez, Roy,  
Sysyn, DeVries, O'Neil**

**Upon Conclusion of Public Hearing  
Aldermanic Chambers  
City Hall (3<sup>rd</sup> Floor)**

1. Chairman Lopez calls the meeting to order.
2. The Clerk calls the roll.
3. Ordinance:  
“Amending the Zoning Ordinance of the City of Manchester by extending the B-2 (General Business) zoning district to include a portion of TPK 3-5A, a portion of TPK 3-5B, a portion of TPK 3-6, TPK 3-6A, TPK 3-7, & TPK 3-8 currently zoned R-3 (Urban Multifamily).”

**Ladies and Gentlemen, what is your pleasure?**

4. Ordinance:  
“Amending the Zoning Ordinance of the City of Manchester by changing the maximum height of residential structures in the R-3 (Urban Multifamily) district from 35 feet to 45 feet.”

**Ladies and Gentlemen, what is your pleasure?**

### **TABLED ITEMS**

**A motion is in order to remove any of the following items from the table for discussion.**

5. Ordinance:  
“Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.”

*(Tabled 11/06/2002)*

6. Ordinance:

“Amending the Zoning Ordinance of the City of Manchester by changing the zoning district of property currently zoned IND (General Industrial) to R-SM (Residential Suburban Multifamily) by extending the R-SM zone district on a portion of property identified as TM 478, Lot 8, located on Candia Road.”

*(Tabled 10/14/2003)*

7. If there is no further business, a motion is in order to adjourn.

# City of Manchester New Hampshire

*In the year Two Thousand and Four*

## AN ORDINANCE

"Amending the Zoning Ordinance of the City of Manchester by extending the B-2 (General Business) zoning district to include a portion of TPK 3-5A, a portion of TPK 3-5B, a portion of TPK 3-6, TPK 3-6A, TPK 3-7, & TPK 3-8 currently zoned R-3 (Urban Multifamily)."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,  
as follows:

(General Business) zoning district to include a portion of TPK 3-5A, a portion of TPK 3-5B, a portion of TPK 3-6, TPK 3-6A, TPK 3-7, & TPK 3-8 currently zoned R-3 (Urban Multifamily)." and being more particularly bounded and described as follows:

Beginning at a point on the centerline of Second Street, said point being on the zone boundary line of the B-2 (General Business) zone district and the R-3 (Urban Multifamily) zone district, prior to this amendment;

Thence, southerly along the centerline of Second Street, approximately 200 ft. to a point on the centerline of Second Street and the centerline of School Street;

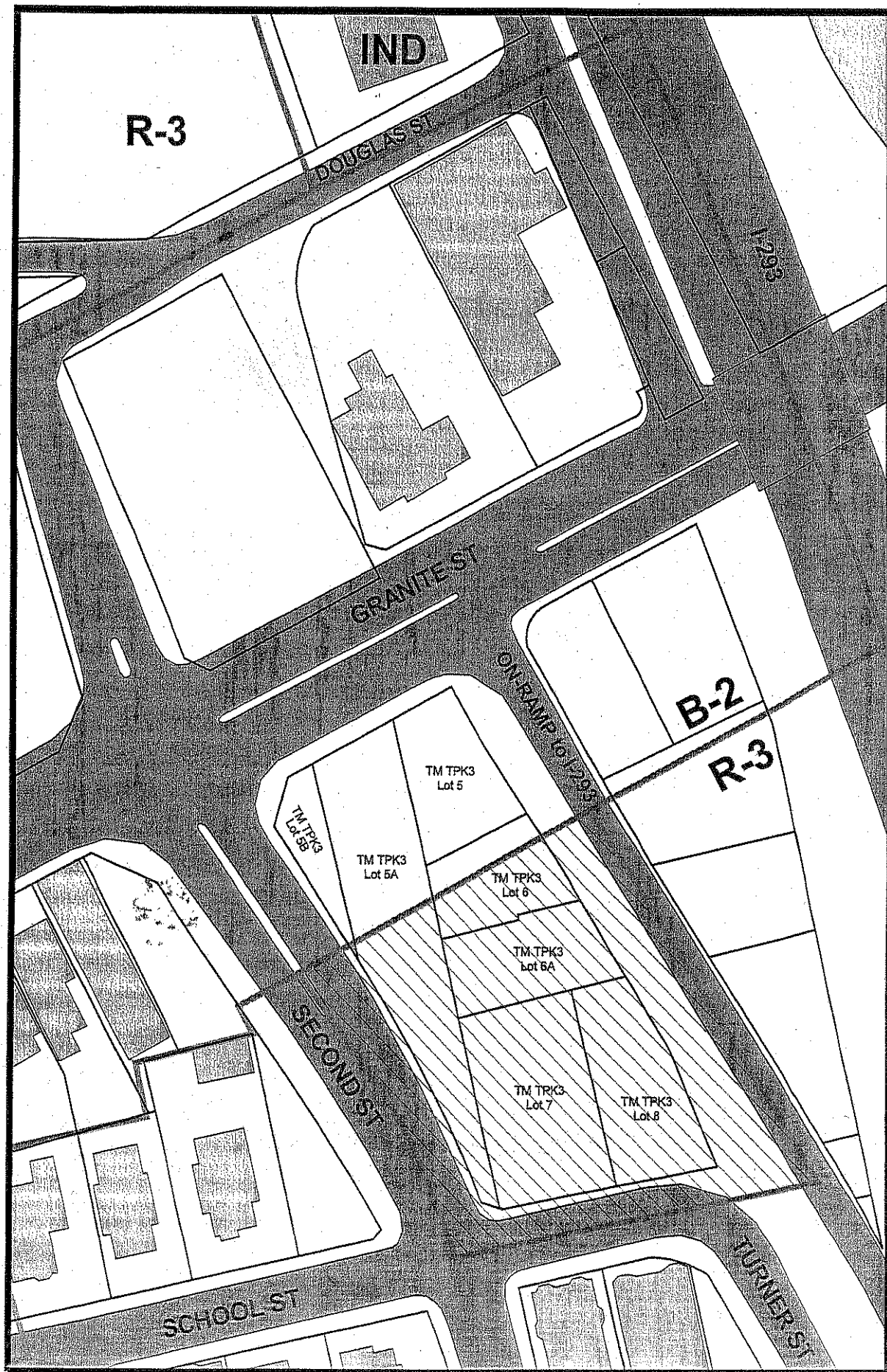
Thence, easterly along the centerline of School Street and as extended, approximately 215 ft. to a point on the centerline of the On-Ramp to I-293;

Thence, northerly along the centerline of the On-Ramp to I-293 approximately 260 ft. to a point, said point being on the zone boundary line of the B-2 (General Business) zone district and the R-3 (Urban Multifamily) zone district, prior to this amendment;

Thence, westerly along the zone boundary line of the B-2 (General Business) zone district and the R-3 (Urban Multifamily) zone district prior to this amendment, a distance of 200 ft. to a point, said point also being the point of beginning.

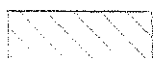
Said description to include a portion of TPK 3-5A, a portion of TPK 3-5B, a portion of TPK 3-6, TPK 3-6A, TPK 3-7, & TPK 3-8 and consisting of approximately 1.34 acres of land.

SECTION II. Resolve this ordinance shall take effect upon passage.



Map prepared by the City of Manchester Planning & Community Development Department (D. Beauchesne), 3 February, 2004.

# **ZONING PETITION R-3 to B-2**



Area proposed to be rezoned from R-3 to B-2

50 0 50 100 Feet



3

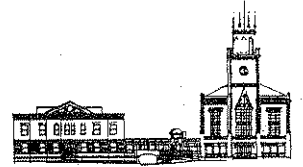


Robert S. MacKenzie, AICP  
Director

# CITY OF MANCHESTER

## Planning and Community Development

Planning  
Community Improvement Program  
Growth Management



Staff to:  
Planning Board  
Heritage Commission  
Milliard Design Review Committee

February 12, 2004

Honorable Board of Mayor and Aldermen  
City Hall  
One City Hall Plaza  
Manchester, New Hampshire 03101

*re: Technical Review of Two Proposed Zoning Changes*

Honorable Board Members:

In accordance with the procedures on rezoning requests, I am providing a report on the technical merits of two proposed zoning changes. These include: 1) extending the B-2 district southerly to include the entire block on the east side of Second Street from Granite to School Streets; and 2) changing the height of housing in the R-3 district from 35 to 45 feet.

From a technical standpoint, the two changes are in order and may be forwarded to hearing. The applicants must provide the additional information required by the ordinance prior to the hearing.

Technical comments on the proposed changes:

- 1) B-2 District on Second Street. This is a request by the Raphael Club to allow the proper zoning for a social club on a new site. The State DOT will be acquiring their current location as part of the new Exit 5 interchange. The zoning change would be an extension of an existing B-2 zoning district along Granite Street. As such, I see no technical issues with the request.
- 2) Height of Housing in the R-3 district. This is a request by Nick Lazos on behalf of clients. Currently the maximum height in the R-3 district is three stories or 35 feet. In an increasing number of situations, 35 feet does not allow a full three stories with a gable roof above. In essence, these would have to be flat roof buildings. In most circumstances, a gable roofed building is more esthetically pleasing than a flat roof. The staff has previously been considering this change and as such there are no technical reasons with the request.

If you have any questions, I will be available at your meeting.

Sincerely,

Robert S. MacKenzie, AICP

Director of Planning & Community Development

One City Hall Plaza, Manchester, New Hampshire 03101

Phone: (603) 624-6450 FAX: (603) 624-6529

E-mail: [planning@ci.manchester.nh.us](mailto:planning@ci.manchester.nh.us)

[www.ci.manchester.nh.us](http://www.ci.manchester.nh.us)

3

# Raphael Club

To: The Board of Mayor and Aldermen  
City of Manchester, N.H.

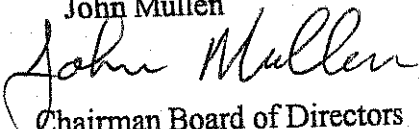
01-23-04

From: The Raphael Social Club  
237 Granite St.  
Manchester, N.H.

As you probably know the State of N.H., Dept. of Transportation will be taking our land and building by eminent domain later this year, for the construction of a south bound off ramp from 293 onto Granite St.. We have entered into an agreement with the State to purchase the property directly across the street from our present location. This property is bounded by Granite St. to the north, Second St. to the west, School St. to the south and the on ramp to 293 on the east. At the present time this vacant property is partially zoned B-2 and R-3. We are asking that the lots that are now zoned R-3 ( TPK 3-5A, TPK 3-6, TPK 3-6A, TPK 3-7, TPK 3-8 ) be rezoned to B-2 . This will enable us to erect our new building on this property. I would like to thank you in advance for your consideration in this matter.

Sincerely

John Mullen

  
Chairman Board of Directors  
Raphael Social Club

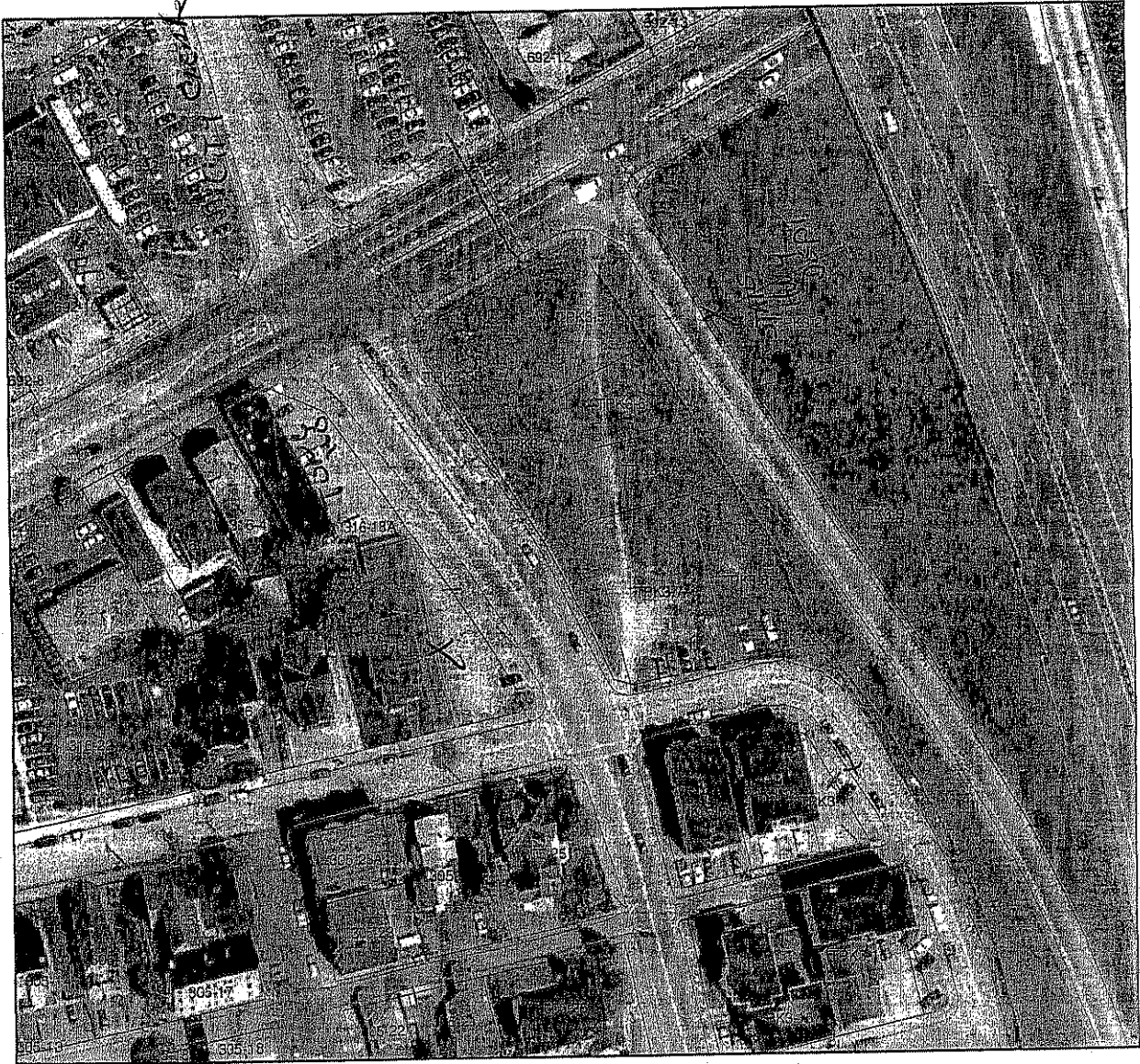
February 17, 2004

In Board of Mayor and Aldermen.

On motion of Alderman Thibault, duly seconded by Alderman Smith, it was voted to refer the rezoning petition to public hearing on March 22, 2004 at 7:00 PM and to the Committee on Bills on Second Reading.

  
City Clerk

3 237 Granite Street - Manchester, New Hampshire 03102 - (603) 623-9018



# City of Manchester New Hampshire

*In the year Two Thousand and Four*

## AN ORDINANCE

"Amending the Zoning Ordinance of the City of Manchester by changing the maximum height of residential structures in the R-3 (Urban Multifamily) district from 35 feet to 45 feet"

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,  
follows:

SECTION I.) Amending the Zoning Ordinance of the City of Manchester by amending Article 6, Section 6.07 Table of Dimensional Regulations for R-3 (Urban Multifamily) district, by removing 35 (feet) under the column of Maximum Height, and inserting in its place 45 (feet).

SECTION II.) Resolve this ordinance shall take effect upon passage.





Robert S. MacKenzie, AICP  
Director

# CITY OF MANCHESTER

## Planning and Community Development

Planning  
Community Improvement Program  
Growth Management



Staff to:  
Planning Board  
Heritage Commission  
Milliard Design Review Committee

February 12, 2004

Honorable Board of Mayor and Aldermen  
City Hall  
One City Hall Plaza  
Manchester, New Hampshire 03101

*re: Technical Review of Two Proposed Zoning Changes*

Honorable Board Members:

In accordance with the procedures on rezoning requests, I am providing a report on the technical merits of two proposed zoning changes. These include: 1) extending the B-2 district southerly to include the entire block on the east side of Second Street from Granite to School Streets; and 2) changing the height of housing in the R-3 district from 35 to 45 feet.

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Technical comments on the proposed changes:

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- 2) Height of Housing in the R-3 district. This is a request by Nick Lazos on behalf of clients. Currently the maximum height in the R-3 district is three stories or 35 feet. In an increasing number of situations, 35 feet does not allow a full three stories with a gable roof above. In essence, these would have to be flat roof buildings. In most circumstances, a gable roofed building is more esthetically pleasing than a flat roof. The staff has previously been considering this change and as such there are no technical reasons with the request.

If you have any questions, I will be available at your meeting.

Sincerely,

Robert S. MacKenzie, AICP

Director of Planning & Community Development

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**SL&V**  
ATTORNEYS AT LAW

February 10, 2004

VIA Hand Delivery

February 17, 2004.  
In Board of Mayor & Aldermen.

On motion of Alderman Forest,  
duly seconded by Alderman  
Osborne, it was voted to refer  
the rezoning petition to  
public hearing on 03/22/2004  
at 7:00 PM and to the Cmte.  
on Bills on Second Reading.

*Shirley Bernier*  
City Clerk.

Board of Mayor and Aldermen  
c/o Manchester City Clerk  
City Hall  
One City Hall Plaza  
Manchester, NH 03101

**Re: PEASE / VAILAS REALTY HOLDINGS, LLC Request for Zoning Amendment for 55  
Riverfront Drive.**

Dear Mayor Baines:

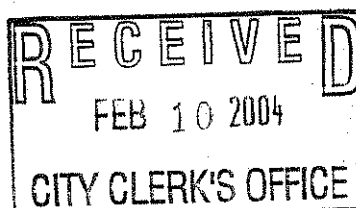
This request for an amendment to the Manchester Zoning Ordinance is being made at the request of my client, PEASE/VAILAS REALTY HOLDINGS, LLC which proposes to develop the property located on the west bank of the Merrimack River known as 55 Riverfront Drive. The Property is located just north of the existing Meetinghouse Place. My client proposes to construct a three story condominium on the Property but has run into an issue relating to the allowed height of a peaked roof for the building in the R-3 Zone.

Our request relates to a technical revision in the Zoning Ordinance which would allow the construction of a three (3) story building with a height of up to 45 feet to the peak of its roof. As part of the adoption of the new Ordinance in February of 2001, the Board permitted the construction of three (3) story buildings in the R-3 Zone but restricted the height to the roof peak to 35 feet. The effect is to allow the construction of a three story building but only with a flat roof. The formal request is to change the reference to "35" in the Height column of Article 6.07 Table Of Dimensional Regulations for the "Base District R-3 Residential, first 3 units" to "45". This change will still limit buildings to three (3) stories but will permit the development of a more architecturally desirable peaked roof for the building.

I have already discussed this request with the Planning Department and they support the revision. I attach the Memorandum of support required by the Zoning Ordinance

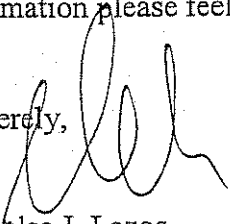
STEBBINS, LAZOS & VAN DER BEKEN  
PROFESSIONAL ASSOCIATION

The Daily Mirror Building  
66 Hanover Street, Suite 301  
Manchester, NH 03101  
Telephone (603) 627-3700  
Facsimile (603) 641-8900



Thank you for your attention to this matter. If you should need any further information please feel free to call me.

Sincerely,

A handwritten signature in black ink, appearing to read 'N. Lazos', written over the word 'Sincerely,'.

Nicholas J. Lazos

cc: Robert MacKenzie

cc: Client

cc: City Clerk

**MEMORANDUM IN SUPPORT OF  
TECHNICAL CHANGE TO ZONING ORDINANCE**

This memorandum is submitted in support of the proposal to make a technical revision to the Zoning Ordinance, which would allow the construction of three (3) story residential building with a height of 45 feet to the peak of its roof in the R-3 Zone.

1. As part of the adoption of the new Ordinance in February of 2001, the Board permitted the construction of three (3) story buildings in the R-3 Zone but restricted the height of a roof peak to 35 feet. This prevents the construction of a three story building with a peaked roof. The formal request is to change the reference from "35" in the Height column of Article 6.07 Table of Dimensional Regulations for the "Base District R-3 Residential, first 3 units" to "45". This change will still limit the buildings to three stories but will permit the development of a more architecturally desirable peaked roof of the buildings.
2. The effect of the proposed zoning ordinance amendment would be to allow traditional peaked roofs on three story buildings in the R-3 Zone. The Petitioner will provide the Board with a Plan comparing otherwise identically three story buildings under the Ordinance as revised, allowing for peaked roofs and under the existence Ordinance, limiting roofs to 35 feet.
3. The proposed change will allow for more architecturally pleasing design for buildings in the R-3 Zone and will have no effect, otherwise, in the economy municipal services and neighborhoods.

We have also done a study of the height of existing buildings and have determined the buildings in the immediate neighborhood have the following heights as calculated under the Ordinance:

Ramada Inn	48 feet
Dockside I and II	39 feet
Meetinghouse Place	51 feet
Amoskeag School	58 feet

4. This request has the support of the abutting property owners.

11/6/02 - Table pending  
info from Intam.  
1/14/03 - Remained on  
table  
6/2/03 - "  
10/14/03 - "  
11/20/04 - "

To the Board of Mayor and Aldermen of the City of Manchester:

Gentlemen:

The Committee on Administration/Information Systems respectfully advises, after due and careful consideration, that it has approved Ordinances:

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations."

as enclosed herein; and recommends that same be referred to the Committee on

Accounts, Enrollment & Revenue Administration and the Committee on Bills on Second

Reading for technical review.

At a meeting of the Board of Mayor and Aldermen

held July 16 2002 on a motion of Ald. Gatsas

duly seconded by Ald. O'Neil the report

of the Committee was accepted and its recommendation as

(adopted) ~~(denied)~~

Luella B. Brown

City Clerk

Respectfully submitted,

Philip A. ...  
Clerk of Committee

Repeal

# City of Manchester New Hampshire

*In the year Two Thousand and Two*

## AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations."

Page 1 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

- I. Amend the Code of Ordinances by deleting §§ 111.65 through 111.70: Dances; Dance Halls; Assembly in its entirety and inserting new §§ 111.65 through 111.73: Dances; Dance Halls; Assembly. New language to the sections appear in bold (**bold**). Previous language from the sections that remain unchanged appear in regular type.

### DANCES; DANCE HALLS; ASSEMBLY

#### § 111.65 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**A-WEIGHTED SOUND PRESSURE.** The sound pressure level as measured with a sound level meter using the A-weighting network. The standard notation is dB(A) or dBA.

**DANCE HALL.** Any location, other than a food-service establishment as defined by § 117.01 of this title, which permits or permits to occur, dancing. This definition shall not include a public or private school licensed by the state or the city for the purpose of conducting regular dancing classes or dance courses of study as its regular and recurrent business activity.

**DECIBEL.** A logarithmic unit of measure often used to measure magnitudes of sound. The symbol is dB.

**ENTERTAINMENT PLACE OF ASSEMBLY.** A room or space in which provision is made for the occupancy or assembly of 100 or more persons for entertainment purposes. For the purpose of this definition such room or space shall include any occupied connecting rooms, space, or area on the same level or in the same story, or in a story or storied above or below, where entrance is common to the rooms, space, or areas. An entertainment place of assembly shall be classified in either two classifications, Class I or Class II. A Class I entertainment place of assembly shall apply to non-profit organizations that do not receive exemptions pursuant to § 110.08(C) of this Code. Class II entertainment places of assembly shall include all other applicants.

# City of Manchester New Hampshire

*In the year Two Thousand and Two*

## AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations."

Page 3 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

### § 111.67 POLICE ATTENDANCE AT FUNCTION.

When it is determined after investigation by the Chief of Police to be necessary to preserve order, protect the health, safety, and welfare of the citizens of the city, or to help avoid traffic-related problems, public disturbance, or public nuisance, all establishments required to be licensed under this subchapter shall be required to hire an off-duty police officer or officers during those hours the Chief of Police deems appropriate. The Chief of Police may suspend the requirement after investigation as he deems appropriate, but his requirement may be reinstated following receipt of complaints and investigation by the Chief of Police.

### § 111.68 MINORS TO BE ACCOMPANIED BY PARENT OR GUARDIAN.

Minors under the age of 17 years shall not be admitted to a dance hall unless accompanied by parent or guardian or under the supervision of school authorities.  
Penalty, see § 111.99

### § 111.69 RESTRICTED AREAS AT DANCES.

No person attending a public dance shall enter any room designated for the use of the opposite sex.  
Penalty, see § 111.99

### § 111.70 CURFEW AT DANCES.

(A) No public dancing shall be permitted between the hours of 2:00 a.m. and 2:00 p.m. on Sunday, 1:00 a.m. and 12:00 p.m. on Monday, or 2:00 a.m. and 12:00 p.m. Tuesday, Wednesday, Thursday, Friday, and Saturday.

(B) No exhibit of natural or artificial curiosities, theatrical performances, or other shows shall be permitted between the hours of 2:00 a.m. and 9:00 a.m. on Sunday, 1:00 a.m. and 9:00 a.m. on Monday, or 2:00 a.m. and 9:00 a.m. Tuesday, Wednesday, Thursday, Friday, and Saturday.  
Penalty, see § 111.99

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# City of Manchester New Hampshire

*In the year Two Thousand and Two*

## AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations."

Page 4 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

### § 111.71 NOISE ACTIVITIES; PURPOSE.

The purpose of this section is to establish standards that will eliminate and reduce unnecessary noise at outdoor venues throughout the city which may be physically harmful or otherwise detrimental to individuals and the community in the enjoyment of life, property and the conduct of business.

(A) No person shall conduct an event that involves the amplification of sound or speech above sixty (60) dB(A) for the purpose of presenting a musical selection, show, performance or concert at an outdoor venue within the limits of the city of Manchester without obtaining a noise permit issued by the Office of the City Clerk.

(B) The following general guidelines shall apply to the issuance of a noise permit. These guidelines are not all inclusive as other criteria may be established that is reasonable and prudent to protect the public or limit the anticipated detrimental impact of the events noise upon the community:

(1) All outdoor venues shall have a curfew of 10:00 p.m. Any event which exceeds this curfew shall be assessed the penalty identified in §111.99(C)(4) for each fifteen (15) minute period beyond this curfew.

(2) The Office of the City Clerk shall not grant a permit to conduct noise at level greater than 100dB(A) to be measured one hundred feet (100') from the noise source.

(3) Any sound board or mix position present at an event shall be placed at one hundred feet (100') from the noise source.

(4) The Office of the City Clerk may require any applicant to be monitored for sound levels to ensure compliance with this chapter. Monitoring may be conducted by a representative of the City or an independent third party using an appropriate sound level meter. In the event of third party monitoring, all expenses associated with the sound monitoring shall be assumed by the applicant.

(5) In granting a license, the Office of the City Clerk may impose additional conditions or stipulations it deems necessary and proper to preserve the intent of this chapter.

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# City of Manchester New Hampshire

*In the year Two Thousand and Two*

## AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.

Page 5 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

(6) Should an application for a noise permit be denied, the applicant can appeal the decision to the Committee on Administration/Information Systems of the Board of Mayor and Aldermen.

### § 111.72 PERMIT FEES.

Each application for a noise permit shall include an application fee of two hundred dollars (\$200.00) cash, money order or bank check made payable to the City of Manchester.

### § 111.73 PROHIBITED CONDUCT.

The following conduct is prohibited:

(A) Provide any false or inaccurate information to any City board, committee, commission or any employee of the City of Manchester, in an attempt to deceive or otherwise avoid compliance with this ordinance.

(B) Hinder, obstruct, delay, resist, interfere, or attempt to interfere with any authorized persons while in the performance of their duties under this ordinance.

(C) Emit or cause to be emitted any noise which exceeds the established limits in §111.71(B)(2) of this chapter.

(D) Violate any subsection of §111.71 of this chapter.

(E) Conduct an event that involves the amplification of sound or speech above sixty (60) dBA for the purpose of presenting a musical selection, show, performance

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# City of Manchester New Hampshire

*In the year Two Thousand and Two*

## AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations."

Page 6 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

**or concert at an outdoor venue in the city of Manchester without obtaining a license from the Office of the City Clerk pursuant to § 111.71(A).**

- II. Amend the Code of Ordinances by deleting language within §111.99: Penalty as stricken (-----) and inserting new language as bolded (**bold**). Portions of §111.99: Penalty that remain unchanged appear in regular type.

### § 111.99 PENALTY.

(A) Any person who shall fail to comply with any of the provisions of this chapter or who shall violate any of the provisions set forth herein, **unless a penalty is specified elsewhere**, shall be subject to the penalties as set forth in § 10.99 of this code of ordinances.

(B) (1) Any person who commits an act prohibited or made unlawful by §§ 111.40 through ~~111.55~~ 111.73 of this chapter or fails to perform any act required by such subchapter shall be guilty of a violation. Each act of violation, **or in the case of continuous violation**, every day upon which any such violation shall occur shall constitute a separate offense. In addition, if the court finds for the city, the city shall recover its costs of suit including reasonable experts' fees, attorney fees, and necessary investigative costs. Parties held responsible for violations of §§ 111.40 through ~~111.55~~ 111.73 shall include corporate officers, partners, or owners as identified on the business license application or as may be otherwise identified by the ~~Police Department~~ City as a result of any related investigation.

(2) The Police Department is hereby authorized to seize any amusement device located within the city in contravention of any of the provisions of §§ 111.40 through 111.55. Upon such seizure the Police Department shall notify the owner of the seized devices, or the person in whose place of business the amusement device was placed, of such seizure and the reason therefor. The Police Department shall hold any such seized devices for a period of not less than ten days from the date of the required notification to the owner or operator of the premises. During this period the owner or operator may redeem any such machine by correcting the violation of this division which led to such seizure. Any amusement devices which are so seized and which are not redeemed within the ten-day period described in this division (B)(2) shall become the property of the city. Costs for transportation and storage charges will be billed to the

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# City of Manchester New Hampshire

*In the year Two Thousand and Two*

## AN ORDINANCE

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Page 7 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

owner of any amusement devices seized and must be paid before the release of the devices from city storage. The city will be held harmless for any damage occurring during the act of confiscation, transportation, and storage of each device.

(C) Violations of § 111.73 Prohibited Conduct shall follow the penalty schedule below:

**(1) FIRST OFFENSE:**

The licensee or his representative shall be informed of the noise ordinance and corrective measures to achieve compliance. This shall constitute an official warning and should be accomplished in writing if possible.

**(2) SECOND OFFENSE:**

A citation shall be issued to the licensee or his representative in the amount of two hundred and fifty dollars (\$250.00).

**(3) THIRD OFFENSE:**

A citation shall be issued to the licensee or his representative in the amount of five hundred dollars (\$500.00).

**(4) FOURTH AND SUBSEQUENT OFFENSES:**

A citation shall be issued to the licensee or his representative in the amount of one thousand dollars (\$1000.00).

III. These ordinances shall take effect upon passage.

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# City of Manchester New Hampshire

*In the year Two Thousand and Three*

## AN ORDINANCE

Amending the Zoning Ordinance of the City of Manchester by changing the zoning district of property currently zoned IND (General Industrial) to R-SM (Residential Suburban Multifamily) by extending the R-SM zone district on a portion of property identified as TM 478, Lot 8, located on Candia Road.

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

SECTION I.), Amending the Zoning Ordinance of the City of Manchester by changing the zoning district of property currently zoned IND (General Industrial) to R-SM (Residential Suburban Multifamily) by extending the R-SM zone district on a portion of property identified as TM 478, Lot 8, located on Candia Road, and being more particularly bounded and described as follows:

Beginning at a point located at the southeasterly corner of the herein described property, at the intersection of TM 478, Lot 2, TM 727, Lots 24B & 33, also being the northeast corner of the R-SM (Residential Suburban Multifamily) and the IND (General Industrial) districts, prior to this amendment;

Thence, in a westerly direction along the property line of TM 478, Lot 2 & TM 478, Lot 8, also being the zone boundary line of the R-SM (Residential Suburban Multifamily) and IND (General Industrial) districts, prior to this amendment, a distance of approximately 357 feet, to a point;

Thence, in a southerly direction along the property line of TM 478, Lot 2 & TM 478, Lot 8, also being the zone boundary line of the R-SM (Residential Suburban Multifamily) and IND (General Industrial) districts, prior to this amendment, a distance of approximately 522 feet, to a point;

Thence, in a westerly direction along the property line of TM 478, Lot 2 & TM 478, Lot 8, also being the zone boundary line of the R-SM (Residential Suburban Multifamily) and IND (General Industrial) districts, prior to this amendment, a distance of approximately 343 feet, to a point;

Thence, in a northerly direction along the property line of TM 478, Lot 8A & TM 478, Lot 8, also being the zone boundary line of the R-1B (Residential One Family) and IND (General Industrial) districts, prior to this amendment, a distance of approximately 630 feet, to a point;

Thence, in a easterly direction across TM 478, Lot 8 along a metes and bound line described as North 59 degrees, 31 minutes, and 52 seconds East, also being the new zone boundary line of the R-SM (Residential Suburban Multifamily) and IND (General Industrial) districts, after this amendment, a distance of approximately 465 feet, to a point;

6

# City of Manchester New Hampshire

*In the year Two Thousand and Three*

## AN ORDINANCE

Amending the Zoning Ordinance of the City of Manchester by changing the zoning district of property currently zoned IND (General Industrial) to R-SM (Residential Suburban Multifamily) by extending the R-SM zone district on a portion of property identified as TM 478, Lot 8, located on Candia Road.

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

Thence, in a southerly direction along the property line of TM 727, Lots 24 D, 24 C, 24 B & TM 478, Lot 8, also being the new zone boundary line of the R-SM (Residential Suburban Multifamily) and IND (General Industrial) districts, after this amendment, a distance of approximately 579 feet, to a point, said point also being the point of beginning.

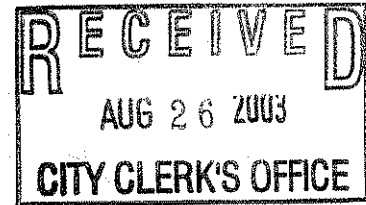
Said description to include a 7.6 acre portion of TM 478, Lots 8.

SECTION II. Resolve this ordinance shall take effect upon passage.

6

**SL&V**  
ATTORNEYS AT LAW

nlazos@slvlaw.com



August 25, 2003

VIA Hand Delivery

Board of Mayor and Aldermen  
c/o Manchester City Clerk  
City Hall  
One City Hall Plaza  
Manchester, NH 03101

**RE: Rezone a Portion of Land of Candia Realty, LLC known as  
Tax Map 478, Lot 8 From Industrial to R-SM. And Amend  
Section 5.10 of the Zoning Ordinance.**

Ladies and Gentlemen:

This attached Petition for an amendment to the Manchester Zoning Ordinance is being made at the request of my client, Candia Realty, LLC. to rezone a portion of the existing Industrial zoned land located on Candia Road containing approximately 7.6 acres (as more specifically described in the Petition) from Industrial to Residential Suburban Multifamily (R-SM). This Petition will effectively extend the existing R-SM Zone south of the Property (which currently contains the Eastgate Apartment Complex) north to include approximately three fourths (3/4) of the Property owned by Candia Realty, LLC. The Property also abuts an existing R-1B Residential Zone to the west. In addition, we request an amendment of the Table of Uses of the Ordinance to permit Drive Through Service for restaurants allowed in the Industrial Zone.

We have already discussed this request with Robert Mackenzie of the Planning Department.

We request that the Petition be included in the proposed public hearing for other Zoning Amendments scheduled for the end of September.

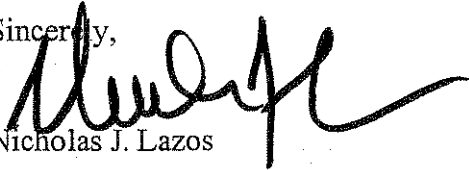
STEBBINS, LAZOS & VAN DER BEKEN  
PROFESSIONAL ASSOCIATION

The Daily Mirror Building  
66 Hanover Street, Suite 301  
Manchester, NH 03101  
Telephone (603) 627-3700  
Facsimile (603) 641-8900

F:\Lazos\clients\Dunkin Donuts\Manchester Candia Rd\Zoning\lt Manchester City Clerk zoning.doc

Thank you for your attention to this matter. If you should need any further information please feel free to call me. We also enclose a check for \$300.00 as required by the Ordinance.

Sincerely,



Nicholas J. Lazos

cc: Robert Mackenzie

cc: Client

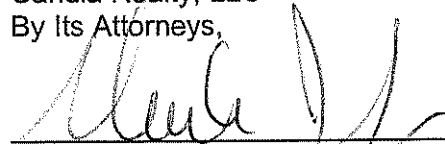
## To the Honorable Board of Mayor and Aldermen of the City of Manchester:

The Undersigned respectfully represents that for the accommodation of the public there is occasion for amending the zoning district applicable to a portion of a 10.94 acre parcel located on Candia Road and known as Map 478, Lot 8 (more particularly described on the attached Exhibit A) (the "Premises") from the current Industrial Zone (Ind) to the Residential Suburban Multifamily (R-SM) support of this Petition offers the following:

1. Map 478 Lot 8 is currently zoned Industrial and abuts the existing R-SM Zone to the south and the R-1B Residential Zone to the west. The purpose of this Petition is to extend the R-SM Zone north to include that portion of the property described in Exhibit A attached hereto and on the attached proposed Development Plan..
2. Petitioner also requests that Section 5.10 G. 6 of the Table of Principal Uses of the Zoning Ordinance amended by inserting a "P" in the "IND General Industrial/Industrial Park" column of said Item G. 6 of the Table.

The Petitioner, therefore respectfully requests that the Honorable Board of Mayor and Aldermen grant this Petition.

Sincerely,  
Candia Realty, LLC  
By Its Attorneys,



Nicholas J. Lazos, Esquire  
Stebbins, Lazos & Van Der Beken, PA  
66 Hanover Street  
Manchester, NH 03101



The land known as Tax Map 748, Lot 8, Candia Road, Manchester, Hillsborough County, New Hampshire, as shown on a plan entitled "TM 748 Lot 8, Dunkin Donuts, Candia Road, Manchester, NH, Development Plan" dated July 2003 Scale 1" = 50' by CLD Consulting Engineers and further described as follows:

Beginning at a point located at the southeasterly most corner of the herein described tract and the intersection of Lots 478/2, 727/33 and 727/24; thence,

- 1) North 64° 20' 22" West along Lot 478/2, a distance of 15.03 feet to a point; thence
- 2) North 74° 33' 02" West along Lot 478/2, a distance of 135.65 feet to a point; thence
- 3) North 71° 42' 43" West along Lot 478/2, a distance of 35.86 feet to a point; thence
- 4) North 77° 55' 43" West along Lot 478/2, a distance of 33.73 feet to a point; thence
- 5) North 74° 36' 15" West along Lot 478/2, a distance of 137.20 feet to a point; thence
- 6) South 03° 10' 10" West along Lot 478/2, a distance of 131.39 feet to a point; thence
- 7) South 02° 21' 39" West along Lot 478/2, a distance of 97.72 feet to a point; thence
- 8) South 02° 26' 58" West along Lot 478/2, a distance of 16.81 feet to a point; thence
- 9) South 02° 40' 57" West along Lot 478/2, a distance of 104.82 feet to a point; thence
- 10) South 01° 51' 33" West along Lot 478/2, a distance of 64.95 feet to a point; thence
- 11) South 04° 12' 50" West along Lot 478/2, a distance of 47.55 feet to a point; thence
- 12) South 00° 14' 17" West along Lot 478/2, a distance of 59.62 feet to a point; thence
- 13) North 79° 11' 20" West along Lot 478/2, a distance of 189.46 feet to a point; thence
- 14) North 71° 45' 20" West along Lot 478/2, a distance of 153.89 feet to a point at the southwest corner; thence

- 15) North 05° 05' 36" East along Lot 478/8A, a distance of 450.75 feet to a point; thence
- 16) North 03° 59' 37" East along Lot 478/8A, a distance of 92.09 feet to a point; thence
- 17) North 03° 22' 31" East along Lot 478/8A, a distance of 87.79 feet to a point at the northwest corner of the herein described tract; thence,
- 18) North 59° 31' 52" East along New Lot 478/8B, a distance of 354.19 feet to a point; thence
- 19) Along a curve with a radius of 57.00, a length of 116.17 feet to a point; thence
- 20) North 64° 43' 25" East, a distance of feet 52.48 to a point; thence
- 21) South 25° 16' 35" East along Lot 727/24C, a distance of feet 12.34 to a point; thence
- 22) South 25° 51' 57" East along Lot 727/24C, a distance of feet 246.35 to a point; thence
- 23) South 24° 54' 39" East along Lot 727/24C, a distance of feet 106.86 to a point; thence
- 24) South 24° 44' 34" East along Lot 727/24B, a distance of feet 109.38 to a point; thence
- 25) South 18° 19' 43" East along Lot 727/24B, a distance of feet 16.97 to the point of beginning.

All distances are approximate.

## MEMORANDUM

This Memorandum as required by Article 16 of the City of Manchester's Zoning Ordinance is in support of the application by Candia Realty, LLC related to Map 478, Lot 8 on Candia Road, Manchester, New Hampshire ("Premises") to amend the zoning map to extend the existing Residential Suburban Multifamily Zone (R-SM) to include the southerly eight (8) acre portion of the Premises.

1. The description of the portion of the Premises to be rezoned is attached hereto in the form of an Exhibit A and a proposed Development Plan.
2. The purpose and intent of the proposed amendment is to amend the zoning map to include the Rezoned Area within the R-SM Zone.
3. The existing zoning district is Industrial but The Premises abuts an existing R-SM Zone to the south and an existing R-1B zone to the west.
4. Impact on District and Adjacent Neighborhoods.

The change in zoning classification will result in a land use which is consistent with the existing uses and will be zoned in a manner consistent with abutting properties. The new zoning classification will have no effect on the adjacent properties since it will reflect and extend existing uses and appropriate uses for the Rezoned Area. The Rezoned Area will serve as a buffer between the R-1B Zoned Area and the Industrial Area to the east. The current use of the Premises will continue until such time as the Premises may be sold.

5. The proposed amendment will have a very beneficial impact on the City's economy, environment and municipal services. The proposed extension of the Suburban Multifamily Zone will provided needed apartment housing for the City and will retain a significant amount of open space. In addition, this extended R-SM Zone creates a buffer zone between the single family area to the west and the developed industrial area to the east. Any future development of the property will require approval from and review by the Manchester Planning Board which will include traffic studies, modified driveways and site plan review to address any possible impacts.

The proposed amendment of the Table of Uses of the Ordinance to permit drive through service in the Industrial Zone is consistent with the permitted uses in the Industrial Zoned areas. The drive through service enhances the convenience and accessibility of smaller restaurants which are already permitted by right in the Industrial Zone. In the present case, drive through service is already permitted in the "Wendy's Restaurant" located directly across Candia Road.

6. Attached is a list of all abutters, addresses and tax map numbers.

6

Petition to ReZone  
Candia Road Lot 478/8  
Manchester, New Hampshire  
List of Abutters

Owners of record as of 7-31-03 4:00 P.M.

**Lot 478/2**

Eastgate Apartment Associates Limited Partnership  
540 N. Commercial Street  
Manchester, NH 03101-1146

**Lot 478/8A**

City of Manchester  
Tax Collector  
908 Elm Street  
Manchester, NH 03101

**Lot 893/1**

Wendy's Old Fashioned Hamburgers  
P.O. Box 256  
4288 W. Dublin Granville Rd  
Dublin, Ohio 43017

**Lot 893/2**

Wendy's Old Fashioned Hamburgers  
P.O. Box 256  
4288 W. Dublin Granville Road  
Dublin, Ohio 43017

\*\*\*\*Former owner James A. Spring

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**Lot 727/24D**

Extra Space Northern Investment LLC  
2795 Cottonwood Portway #400  
Salt Lake City, UT 84121

\*\*\* Former owner Safeloc Storage

**Lot 272/24C**

Normand J. Campeau  
449 Hayward Street  
Manchester, NH 03103

**Lot 727/24B**

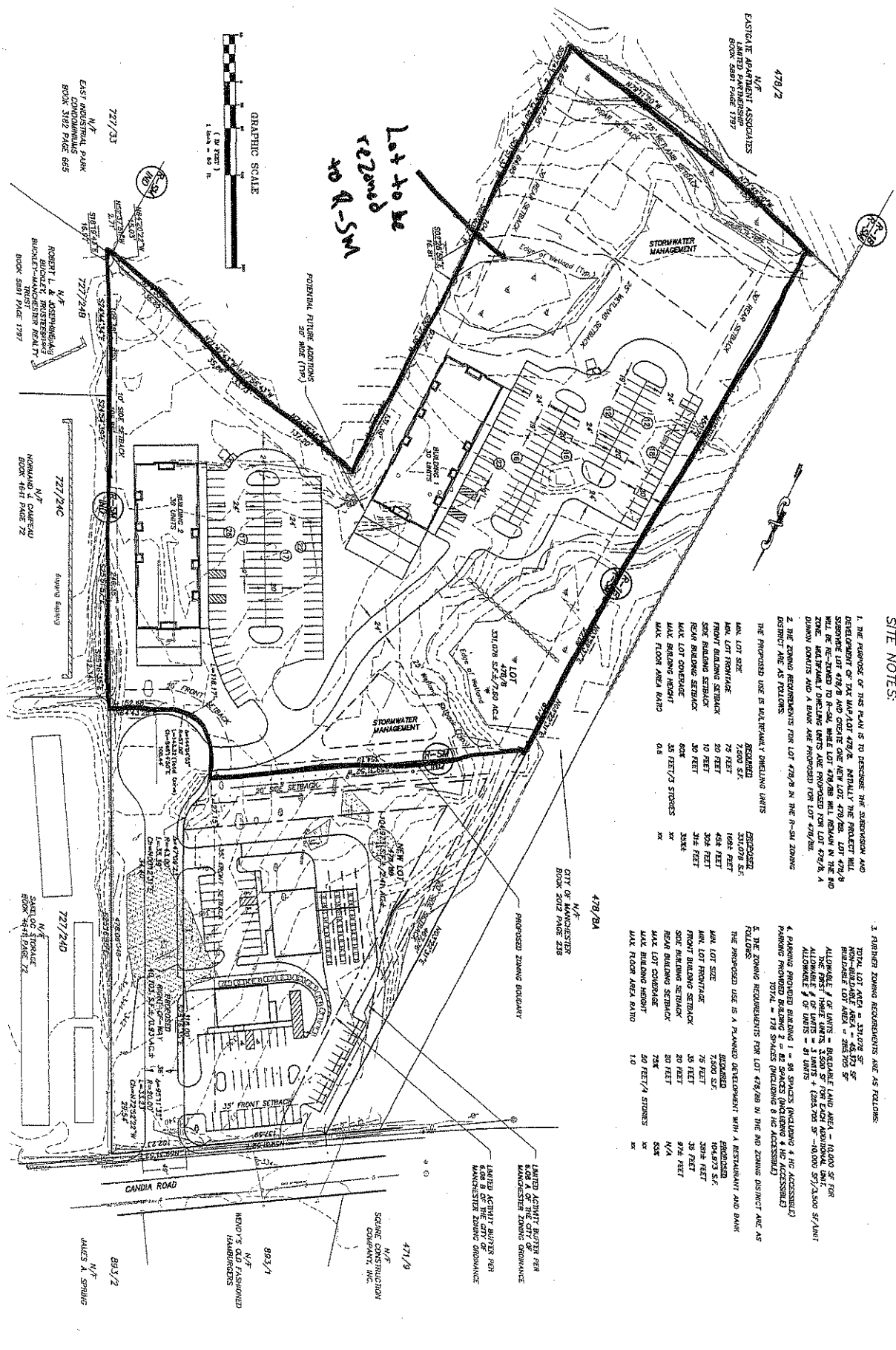
Robert Buckley, Trustee  
385 King Street  
Hanover, MA 02339

Add'l owner

Josephine Buckley as Trustee  
Buckley Manchester Realty Trust

**Lot 272/33**

Duryco LLC  
C/o DRC Realty LLC  
720 E. Industrial Park Dr. #1  
Manchester, NH 03109



**SITE NOTES:**

1. THE PURPOSE OF THIS PLAN IS TO DESCRIBE THE SUBDIVISION AND DEVELOPMENT OF THE MAP LOT 47B.2. INITIALLY THE PROJECT WILL SUBDIVIDE LOT 47B.2 AND CREATE ONE NEW LOT 47B.2A, LOT 47B.2B, LOT 47B.2C, LOT 47B.2D, LOT 47B.2E, LOT 47B.2F, LOT 47B.2G, LOT 47B.2H, LOT 47B.2I, LOT 47B.2J, LOT 47B.2K, LOT 47B.2L, LOT 47B.2M, LOT 47B.2N, LOT 47B.2O, LOT 47B.2P, LOT 47B.2Q, LOT 47B.2R, LOT 47B.2S, LOT 47B.2T, LOT 47B.2U, LOT 47B.2V, LOT 47B.2W, LOT 47B.2X, LOT 47B.2Y, LOT 47B.2Z, LOT 47B.2AA, LOT 47B.2AB, LOT 47B.2AC, LOT 47B.2AD, LOT 47B.2AE, LOT 47B.2AF, LOT 47B.2AG, LOT 47B.2AH, LOT 47B.2AI, LOT 47B.2AJ, LOT 47B.2AK, LOT 47B.2AL, LOT 47B.2AM, LOT 47B.2AN, LOT 47B.2AO, LOT 47B.2AP, LOT 47B.2AQ, LOT 47B.2AR, LOT 47B.2AS, LOT 47B.2AT, LOT 47B.2AU, LOT 47B.2AV, LOT 47B.2AW, LOT 47B.2AX, LOT 47B.2AY, LOT 47B.2AZ, LOT 47B.2BA, LOT 47B.2BB, LOT 47B.2BC, LOT 47B.2BD, LOT 47B.2BE, LOT 47B.2BF, LOT 47B.2BG, LOT 47B.2BH, LOT 47B.2BI, LOT 47B.2BJ, LOT 47B.2BK, LOT 47B.2BL, LOT 47B.2BM, LOT 47B.2BN, LOT 47B.2BO, LOT 47B.2BP, LOT 47B.2BQ, LOT 47B.2BR, LOT 47B.2BS, LOT 47B.2BT, LOT 47B.2BU, LOT 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THE PROPOSED USE IS A PLANNED DEVELOPMENT WITH A RESTAURANT AND BAKERY

PROPOSED	EXISTING
MAX. LOT SIZE	2,200 S.F.
MAX. LOT FRONTAGE	75 FEET
PROPOSED BUILDING SETBACK	30 FEET
EXISTING BUILDING SETBACK	10 FEET
MAX. BUILDING SETBACK	30 FEET
MAX. LOT COVERAGE	60%
MAX. BUILDING HEIGHT	35 FEET/3 STORIES
MAX. FLOOR AREA RATIO	0.5

PROPOSED	EXISTING
MAX. LOT SIZE	2,200 S.F.
MAX. LOT FRONTAGE	75 FEET
PROPOSED BUILDING SETBACK	30 FEET
EXISTING BUILDING SETBACK	10 FEET
MAX. BUILDING SETBACK	30 FEET
MAX. LOT COVERAGE	60%
MAX. BUILDING HEIGHT	35 FEET/3 STORIES
MAX. FLOOR AREA RATIO	0.5

4. PARKING PROVIDED BUILDING 1 = 88 SPACES (INCLUDING 4 HC ACCESSIBLE) PARKING PROVIDED BUILDING 2 = 82 SPACES (INCLUDING 4 HC ACCESSIBLE) TOTAL = 170 SPACES (INCLUDING 8 HC ACCESSIBLE)

5. THE ZONING REQUIREMENTS FOR LOT 47B/8B IN THE MD ZONING DISTRICT ARE AS FOLLOWS:

PROPOSED	EXISTING
MAX. LOT SIZE	2,200 S.F.
MAX. LOT FRONTAGE	75 FEET
PROPOSED BUILDING SETBACK	30 FEET
EXISTING BUILDING SETBACK	10 FEET
MAX. BUILDING SETBACK	30 FEET
MAX. LOT COVERAGE	60%
MAX. BUILDING HEIGHT	35 FEET/4 STORIES
MAX. FLOOR AREA RATIO	1.0

TM 47B LOTS 8, 8B  
DUNKIN' DONUTS  
CANDIA ROAD  
MANCHESTER, NH  
**DEVELOPMENT PLAN**

DATE: **SCRIVANOS NETWORK**  
15 B PARK RIDGE ROAD  
WARD HILL, MA 01835

**CONSULTING ENGINEERS**  
INC.  
540 Commercial Street-WARD HILL, MA 01835  
(603) 656-8223-Fax (603) 656-6802  
cd@cdengineers.com www.cdengineers.com  
MasterView, AutoCAD, MicroStation

A.	B./C./D.	REVISED ZONE, LOT LINE, NOTES
NO.	DATE	REVISION

DRAWN: JAD	DESIGNED: JAD	CHECKED: DMS	APPROVED: DMS
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SCALE: 1"=50'  
DATE: 07/05  
JOB NO. 07-0149  
DWG. DP1

TM 47B LOTS 8, 8B  
DUNKIN' DONUTS  
CANDIA ROAD  
MANCHESTER, NH  
**DEVELOPMENT PLAN**

DATE: **SCRIVANOS NETWORK**  
15 B PARK RIDGE ROAD  
WARD HILL, MA 01835

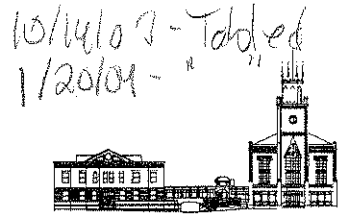


Robert S. MacKenzie, AICP  
Director

# CITY OF MANCHESTER

## Planning and Community Development


Planning  
Community Improvement Program  
Growth Management



Staff to:  
Planning Board  
Heritage Commission  
Millyard Design Review Committee

### Memorandum

To: Committee on Bills on Second Reading

From: Robert S. MacKenzie   
Director of Planning

Date: October 8, 2003

re: Proposed Rezoning of property on Candia Road

This request is actually composed of two parts. First, the rezoning of a portion of land from IND to R-SM on a property on the south side of Candia Road and east of I-93. Second is a text change to the ordinance that would allow drive-thru windows for restaurants in the IND district.

With respect to the map change, our staff has not had time to discuss the issues related to this. The Board may want additional information on school impacts and possible traffic. It would be my opinion, however, that the configuration of the property – particularly the southern one third – lends itself better to residential than industrial. This is because the site tucks in behind existing residential areas and certain industrial uses in this location would be disruptive of the neighborhood.

A question was also raised on whether the rezoning request complies with the 10 acre limitation of the Zoning Ordinance for R-SM zones. We are preparing a letter to the City Solicitor on this issue.

With respect to the drive-thru provision, it is our opinion that if the Board is inclined to allowing the proposed uses, that this change would be far more preferable than changing the zoning of the larger area to a commercial district. If this change were made I would note that additional changes might be required in order to avoid an anomaly in the ordinance.

I will be available at your next meeting should you have questions.

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E-mail: [planning@ci.manchester.nh.us](mailto:planning@ci.manchester.nh.us)  
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6